

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Trace Peck,

Petitioner,

v.

Case No. 1:09cv393

Warden, Mansfield Correctional Institution,

Judge Michael R. Barrett

Respondent.

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on July 21, 2010 (Doc. 17).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. 636, this Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Respondent's Motion to Dismiss (Doc. 15) is **GRANTED** and this matter is **DISMISSED WITH PREJUDICE** consistent with the report and recommendation by the Magistrate Judge.

A certificate of appealability will not issue with respect to the petitioner nor will an appeal on any Order adopting this Report and Recommendation be taken in "good faith" pursuant to the opinion of the Magistrate Judge.

**IT IS SO ORDERED.**

S/Michael R. Barrett  
Michael R. Barrett  
United States District Judge